

Reconsideration, Genesee is not entitled to 1 MHz separation from Sprint's ESMR operations because it is not a member of the class to which the Commission extended that protection.⁹

4. Genesee further argues it will suffer irreparable harm if forced to comply with the *MO&O* because it would have to conduct a second rebanding of its system once it prevails on its Petition for Reconsideration.¹⁰ We disagree. The *MO&O* is silent on when Genesee must commence rebanding its system. Genesee's only obligation under the *MO&O* is to submit a cost estimate and to negotiate a Frequency Reconfiguration Agreement.¹¹ Genesee has failed to demonstrate how either action causes it irreparable harm.

5. Genesee also argues that grant of the stay will not harm third parties and may actually harm third parties that may reconfigure their systems to the channels the *MO&O* directed Genesee to vacate and, therefore, would have to reconfigure their systems a second time should Genesee prevail on its Petition for Reconsideration.¹² While we agree with Sprint that grant of the stay could have programmatic impact affecting Sprint, we do not find another licensee who would be negatively affected by grant of a waiver.¹³ However, because the stay criteria are conjunctive, and Genesee has not met the first two prongs of the criteria for a stay, we need not decide whether the effects of a stay on Sprint is sufficient to warrant denying Genesee's motion.

6. Finally, Genesee argues that since it warrants a stay based upon meeting the other three factors cited above, it would not be in the public interest to deny the stay.¹⁴ Since we find that Genesee has not met two of those factors, we need not address Genesee's public interest argument.

7. Genesee has failed to meet the requirements for obtaining a stay. Thus, we deny its motion.

8. Accordingly, pursuant to the authority of Sections 0.191, 0.392, 1.43 and 1.298(a) of the Commission's Rules, 47 C.F.R. §§ 0.191, 0.392, 1.43 and 1.298(a); and Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i) IT IS ORDERED that the Motion for Stay filed by the County of Genesee IS DENIED.

9. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

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⁹ See Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Second Report and Order*, 23 FCC Red 7605, 7616 ¶ 25 (2008).

¹⁰ Motion for Stay at 2.

¹¹ *MO&O* ¶¶ 41-43.

¹² Motion for Stay at 2-3.

¹³ Opposition at 4.

¹⁴ Motion for Stay at 3.